

STATE OF MINNESOTA
IN SUPREME COURT
45298, 50438

SUPREME COURT
FILED

APR 4 1980

JOHN McCARTHY,
CLERK

IN RE HEARING ON MANDATORY
ATTENDANCE AT COURSES ON LEGAL
AND JUDICIAL ETHICS

O R D E R

WHEREAS it has come to the attention of the Court that the Continuing Legal Education Program of Minnesota is currently deficient in courses offered to members of the bar and the judiciary on the subjects of legal and judicial ethics and judicial administration, and

WHEREAS it is proposed that effective July 1, 1980, to qualify for active status all members of the bar and the judiciary will complete in each three-year period at least five hours of attendance at, or participation in, approved courses dealing with legal and judicial ethics and judicial administration, and

WHEREAS it is proposed that it will be the responsibility of the Director of the Office of Continuing Education for State Court Personnel and the Director of the Lawyers Professional Responsibility Board to implement and supervise the preparation and conducting of such courses as meet existing standards for approval of similar continuing legal education programs, and

WHEREAS the Supreme Court wishes to allow public testimony on the proposed rule,

NOW, THEREFORE, IT IS HEREBY ORDERED that a hearing on the rule shall be held in the Supreme Court Chambers in the State Capitol, St. Paul, at 9:30 a.m. on Friday, June 6, 1980.

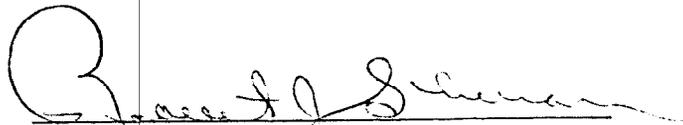
IT IS FURTHER ORDERED that advance notice of the hearing be given by the publication of this order once in the Supreme Court edition of FINANCE AND COMMERCE, ST. PAUL LEGAL LEDGER, and BENCH AND BAR.

IT IS FURTHER ORDERED that interested persons show cause, if any they have, why the proposed rule should not be adopted. All persons

desiring to be heard shall file briefs or petitions setting forth their objections and shall also notify the Clerk of the Supreme Court, in writing, on or before May 30, 1980, of their desire to be heard on the matter.

DATED: April 3, 1980.

BY THE COURT


Chief Justice

45298
50438

4-18-1 to each
Judge

RICHARDSON & RICHARDSON
ATTORNEYS AT LAW
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PHILIP RICHARDSON
SCOTT RICHARDSON

April 15, 1980

File: 8979

John McCarthy
Clerk of Supreme Court
Capitol Building
St. Paul, MN 55100

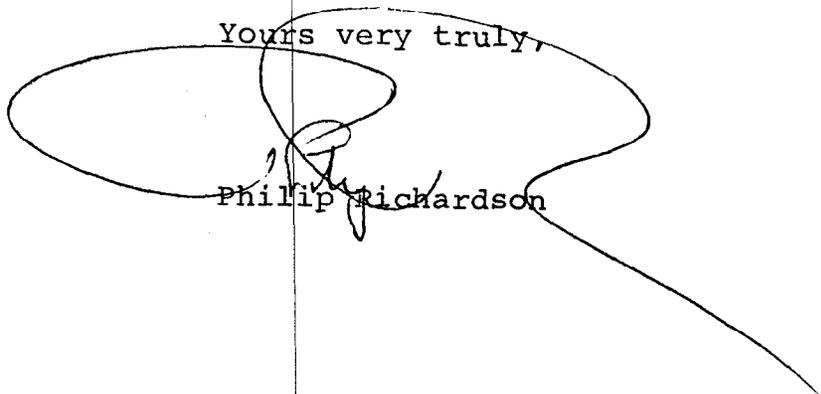
In Re Hearing on Mandatory Attendance at ⁴⁵²⁹⁸
Courses on Legal and Judicial Ethics ⁵⁰⁴³⁸

It is not clear to me whether the proposed rule would require five hours of of approved courses dealing with legal ethics in addition to the 45 hours presently required or whether the rule will be that the 45 hours presently required shall include at least 5 hours of legal ethics.

My feeling is that the Supreme Court should direct the Director of the Office of Continuing Legal Education to provide courses on legal and judicial ethics and then wait and see how the attendance is before making it compulsory.

I do not desire to be heard on this matter but would appreciate it if you would file this letter.

Yours very truly,



Philip Richardson

PR/mj

5-22 -- 1 to
end Justice

LEONARD E. LINDQUIST
NORMAN L. NEWHALL
LAURESS V. ACKMAN
GERALD E. MAGNUSON
EDWARD M. GLENNON
MELVIN I. ORENSTEIN
ISRAEL E. KRAWETZ
EUGENE H. KEATING
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J. MICHAEL DADY
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RICHARD D. McNEIL
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JAMES P. MCCARTHY
STEVEN J. JOHNSON

OF COUNSEL
THOMAS VENNUM
DENNIS M. MATHISEN

May 21, 1980

Mr. John McCarthy
Clerk of the Supreme Court
State Capitol
St. Paul, Minnesota 55155

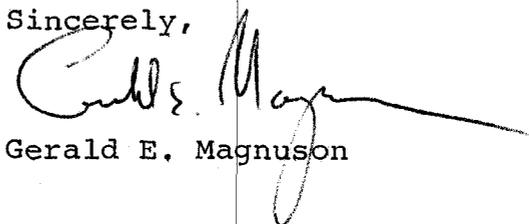
50438

Re: Hearing on Mandatory Attendance at Courses on Legal and
Judicial Ethics

Dear Mr. McCarthy:

This is to advise that I would like to appear and make a
brief statement regarding the above matter at the hearing scheduled
for June 6, 1980, on behalf of the Lawyers Professional Responsibility
Board.

Sincerely,



Gerald E. Magnuson

GEM:crg
cc: Mr. Michael J. Hoover

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50438

5-23 -- 1 to each Justice

Thomas J. Bieter
Attorney-at-Law
600 Missabe Building
Duluth, Minnesota 55802

Phone: 218/722-5807

May 22, 1980

John McCarthy
Clerk of Supreme Court
Room 317G Capitol
St. Paul, Minnesota 55155

45 298 and 50438

Re: Mandatory attendance at courses on
legal and judicial ethics

Dear Mr. McCarthy:

This letter is in regard to the Supreme Court order on the above subject as published in the April Bench and Bar at page 5.

I do not intend to testify at the hearing on June 6, 1980, but did want to convey my comments to the Court by this letter.

Since my admission to the bar and prior to the passage of the mandatory continuing legal education rule, it was my practice to take as many CLE courses as my time and my finances would permit. Because the number of courses I took annually exceeded the requirements of the proposed rule, I did not oppose the rule.

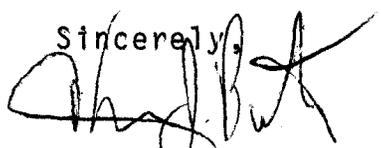
Regarding legal ethics, however, I can distinctly recall that on several occasions I asked for such a course on the written comment questionnaire which is distributed at the CLE seminars. I know that on at least one occasion I personally spoke to Mr. John Wert and told him that I would like to attend a one or two day seminar devoted to legal ethics and lawyer malpractice.

I cannot ever recall receiving a brochure from any continuing legal education sponsoring organization offering a legal ethics seminar.

I am curious to know if this proposed rule is suggested because lawyers refuse to take a course in legal ethics, or to insure that such courses get the attendance. This question is prompted by the first premise of the Court's order.

I would be grateful for your advise on this question.

For me, as for most lawyers, I think, it is more preferable that we be allowed to voluntarily perform acts than that we be coerced by rule.

Sincerely,

THOMAS J. BIETER

TJB:b

STATE OF MINNESOTA
IN SUPREME COURT

In re Proposed Rule)
on Mandatory Attendance)
at Courses on Legal and)
Judicial Ethics.)

45298 and
50438

PETITION IN
OPPOSITION TO
PROPOSED RULE
AND NOTICE OF
DESIRE TO BE
HEARD.

1. Petitioners Richard C. Allen, Carol A. Noteboom, and Peter N. Thompson oppose the implementation of the rule imposing mandatory attendance at Legal and Judicial Ethics courses and Judicial Administration courses and request the Court to refer the question either to a special ad hoc advisory committee or to the Minnesota State Board of Continuing Legal Education for study and future recommendation of proposed action by the Court.

2. The proposed rule as drafted is fatally vague. It does not indicate :

a) whether the mandatory five hours is in addition to the required 45 hours or part of the required 45 hours;

b) whether courses put on by organizations such as Advanced Legal Education, Continuing Legal Education, National Practice Institute, and Minnesota Trial Lawyers Association could be used to meet the requirement;

c) who is to review and certify the courses which will qualify;

d) what criteria will be used in certifying the courses;

e) what is meant by "Judicial Administration";

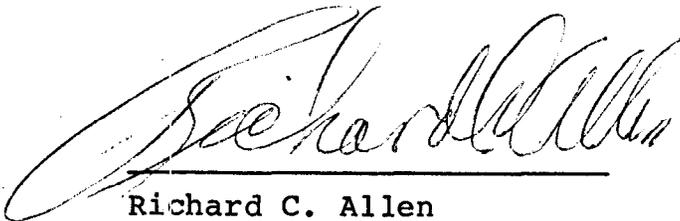
f) who will keep track of compliance by Minnesota attorneys.

3. Without answers to the above questions, it is impossible to form an opinion as to the necessity or propriety of any such rule. Petitioners, and likely other members of the bar and public, might have strong views on the proposed rule, depending on what the rule actually means.

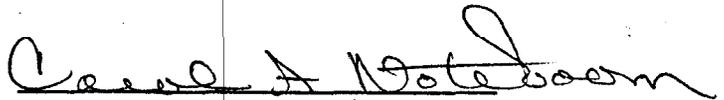
4. Petitioners urge that no rule be implemented until there is further study of the need for a rule, a proposed rule that clearly addresses the perceived problem, notice of the proposed rule, and opportunity for the bar to comment on the rule. Because of the lack of specificity in the proposed rule, there has not been effective notice to the public.

5. Petitioners hereby notify the Court and Clerk of their intention to appear and speak in opposition to the proposed rule at the hearing on June 6, 1980.

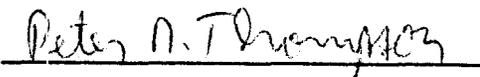
DATED: May 22, 1980



Richard C. Allen
Dean, Hamline University
School of Law
1536 Hewitt Avenue
St. Paul, Minnesota 55104
641-2345



Carol A. Noteboom
Director, Advanced Legal
Education
Hamline University School of Law
St. Paul, Minnesota 55104
641-2357



Peter N. Thompson
Chairman, Advanced Legal Education
Advisory Committee
Hamline University School of Law
St. Paul, Minnesota 55104
641-2138

10

45298 and 50438

2-27-11 to each judge

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May 22, 1980

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 STEPHEN D. GORDON
 A. JAMES ANDERSON
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 HARDING A. ORREN
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JULIUS E. DAVIS (1912-1979)
 CHARLES H. HALPERN (1911-1965)

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 MARK L. WILSON
 JAMES C. ERICKSON
 DAVID S. EVINGER
 RITA A. MCCONNELL
 BETSY HALL

The Honorable Robert J. Sheran
 Chief Justice of the
 Supreme Court of Minnesota
 State Capital
 St. Paul, Minnesota 55105

Dear Chief Justice:

Please accept this letter as my presentation to the Court on the subject of the proposed requirement of mandatory attendance at courses on legal and judicial ethics. I regret that I will be out of the city on June 6 and unable to attend and present my thoughts directly at the hearing.

I strenuously object to the suggestion of the requirement of five hours of attendance at approved courses dealing with legal and judicial ethics or judicial administration. I believe that such a requirement would merely further confuse an already confused situation with respect to required continuing legal education, and would afford no appreciable benefit either to the Bar or the general public. I do not suggest that courses on legal ethics are not a good idea. I do suggest that a requirement of the sort suggested would not do a bit of good.

My experience on the Board of Professional Responsibility and all of the current statistics on the subject make it patently clear that the problems of legal ethics are not problems of ignorance among attorneys as to what is right or what is wrong. The two basic problems are moral inadequacy and personal or professional disorganization. Required courses will not help either.

It is clear that the most serious ethical problems are those that involve defalcation of one sort or another. This might

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be termed moral inadequacy. A lawyer who takes and uses client's funds knows he is doing the wrong thing. He probably is responding to other pressures, but he certainly is not responding to his ignorance of the right or wrong involved. There is no way to teach a dishonest person to be honest. Required attendance at courses on ethics would do no more good than requiring felons to attend church. If they want to go to church and reform they will do so, and more power to the churches for being available to assist under such circumstances. Forced attendance, however, has never done any good.

The second problem, that of personal and professional disorganization, is also a product of the type of person that is involved rather than ignorance of the ethical requirements. Personal disorganization often results from family difficulties, chemical dependency, or emotional upset. Unfortunately, courses on legal ethics are not going to help prevent these. Professional disorganization results from poorly managed offices. In my opinion our Board of Continuing Legal Education's position of hesitating to accredit courses on law office management is totally counter-productive to solving this problem. While I would not recommend that the Court impose a specific requirement of attendance at courses on law office management, I do suggest that such a requirement would do more good than a requirement of attendance at courses on ethics. Management courses teach lawyers things that they can use but have not had an opportunity to learn in their formal legal education. Such courses can accomplish much more in terms of avoiding ethical problems than courses on morality or ethics themselves.

Mike Hoover's article in the April, 1980, Bench and Bar indicates that 24 out of 70 (almost 35%) of the warnings issued in 1979 were for neglecting a legal matter, which, in almost every instance, is a result of a disorganized practice. Another five warnings were based on failure to communicate, which is a problem with a similar genesis.

I do not recall a single instance of actual discipline which involved a claim by an attorney that he did not know that the act complained of was unethical, nor have I ever had reason to feel that additional education on the Code of Ethics would have prevented a problem of any consequence. The fact is that when there are situations of uncertainty, lawyers can and regularly do resolve the uncertainties by checking the Code themselves or by inquiring of our Board of Professional Responsibility. It would be pure happenstance if a required

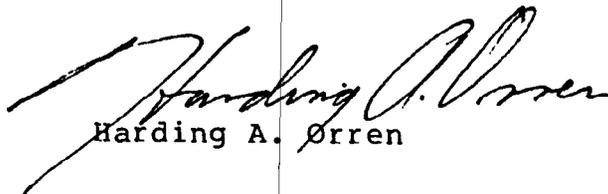
Chief Justice Sheran
May 22, 1980
Page 3

course provided an answer in advance to a question that was going to come up.

One additional problem would be concern about the substance of five hours of instruction on the general subjects every three years. Judicial administration, of course, can be a very interesting subject to the lawyer who might be inclined to be interested in it, but courses on the Code of Professional Responsibility are very boring. To suggest that every lawyer be required to sit through five hours of such courses every three years goes well beyond any needs. If a requirement is to be imposed, it ought not exceed one hour which might serve the purpose of exposing every lawyer to changes in the Code while not boring him to tears.

I am sorry that I will not be in attendance at the hearing. I will be out of the city lecturing at a conference on law office management, which is my way of helping lawyers avoid ethical problems.

Yours respectfully,



Harding A. Orren

HAO/lj
cc: Doug Heidenreich



Minnesota State Bar Association

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President

FRANK CLAYBOURNE
1500 First National Bank Bldg.
St. Paul, MN 55101
(612) 291-9333

May 23, 1980

Mr. John McCarthy, Clerk
Minnesota Supreme Court
State Capitol
St. Paul, Minnesota 55155

Re: In Re Hearing on Mandatory Attendance
at Courses on Legal and Judicial Ethics
File Nos. 45298, 50438

Dear Mr. McCarthy:

This is to notify you, pursuant to the Court Order of April 3, 1980, that the Minnesota State Bar Association would like to appear and be heard at the hearing scheduled for Friday, June 6th, in the above-entitled matter.

I would like to appear on behalf of the Bar Association as President, to inform the Court of the action taken by the Board of Governors of the MSBA in support of the proposal. I do not anticipate that my statement would take more than a moment or two, and I do not intend to file a brief in the matter.

In addition, however, I would also like to request that President Elect Conrad M. Fredin also be scheduled as a spokesman on behalf of the Bar Association. Mr. Fredin has long had an interest in the topic having served as Chairman of the CLE Committee and has some further thoughts on the subject that he would like to express to the Court.

Yours very truly,

Frank Claybourne
President

FC:jj

cc: Mr. Conrad M. Fredin

Executive Director CELENE GREENE

President-Elect

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MINNESOTA BOARD ON JUDICIAL STANDARDS

202 MINNESOTA STATE BANK BUILDING
200 SOUTH ROBERT STREET
ST. PAUL, MINNESOTA 55107

To: Rob [unclear]

GEORGE C. KING
CHAIRMAN
DAVID J. COLEMAN
RUBY HUNT
HON. ROBERT F. JOHNSON
HON. GORDON L. MC RAE
JOHN W. PADDEN
HON. SEWELL SAWYER
~~XXXXXXXXXXXXXXXXXXXX~~
JUANITA H. YOUNG

45298
50438

GEORGE J. KURVERS
EXECUTIVE SECRETARY
612-296-3999

April 23, 1980



Honorable Robert J. Sheran
Chief Justice
Minnesota Supreme Court
State Capitol
St. Paul, Minnesota 55155

RE: Hearing on Mandatory Attendance at Courses on Legal
and Judicial Ethics

Dear Chief Justice Sheran:

The Board on Judicial Standards at its meeting on April 18,
1980 passed the following resolution to the Minnesota
Supreme Court:

WHEREAS the Minnesota Supreme Court is proposing
an amendment to the rules for Continuing Legal
Education Program of Minnesota that effective
July 1, 1980 to qualify for active status all
members of the bar and the judiciary will complete
in each three year period at least five hours of
attendance at, or participation in, approved courses
dealing with legal and judicial ethics and judicial
administration.

BE IT HEREBY RESOLVED BY THE BOARD ON JUDICIAL
STANDARDS that it supports the above proposed
rule change.

Very truly yours,

George C. King
Chairman

MINNESOTA STATE BOARD OF CONTINUING LEGAL EDUCATION

An Agency of the Minnesota Supreme Court
875 Summit Avenue, St. Paul, Minnesota 55105
(612) 227-5430

Douglas R. Heidenreich
Executive Director

John P. Byron
Chairman

May 28, 1980

John McCarthy
Clerk
The Supreme Court of Minnesota
State Capitol
St. Paul, Minnesota
55155

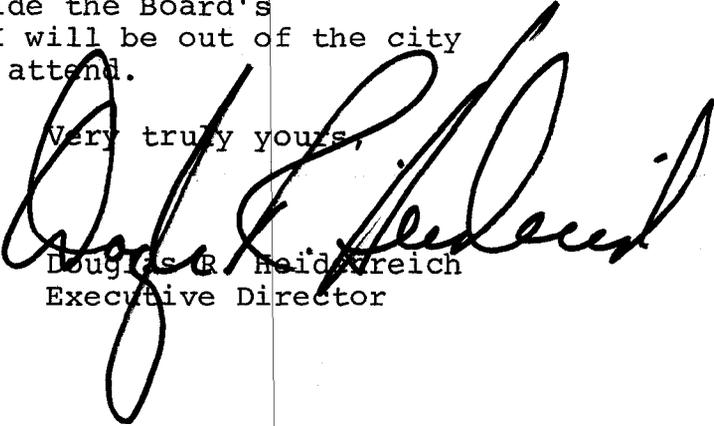
Bailey W. Blethen
Gene W. Halverson
Kenneth F. Kirwin
Joseph A. Maun
Wenda W. Moore
Peter S. Popovich
Sidney Rand
Kathleen Ridder
Peter J. Schmitz
Hon. Harold W. Schultz
James P. Shannon
John E. Simonett

In Re Hearing on Mandatory Attendance at Courses
on Legal and Judicial Ethics

Dear Mr. McCarthy:

John Byron, Chairman, will appear on behalf of the Board of Continuing Legal Education in the above matter and will provide the Board's submission to the Court. I will be out of the city on June 6 and thus can not attend.

Very truly yours,



Douglas R. Heidenreich
Executive Director

DRH:db
cc: John P. Byron

No. 45298 and 50438

STATE OF MINNESOTA

IN SUPREME COURT

* * * * *

IN RE HEARING ON MANDATORY
ATTENDANCE AT COURSES ON
LEGAL AND JUDICIAL ETHICS.

PETITION OF
CONRAD M. FREDIN

* * * * *

TO: The Supreme Court of the State of Minnesota:

Your Petitioner, Conrad M. Fredin, asks the Court to consider the following:

1. Petitioner is an attorney admitted to practice in the State of Minnesota in 1949, has practiced continuously in this state since admission, and is currently issued Registration Card No. 17925.

2. For a number of years Petitioner has been interested in continuing legal education; served on the Continuing Legal Education Committee of Minnesota State Bar Association during the years 1972 to 1977, and was chairman of the Continuing Legal Education Committee for the last two of those years.

3. Petitioner also served on the Lawyers Professional Responsibility Board commencing with the inception of that organization and continuing for eight years. During this time Petitioner acquired some acquaintance with the ethical mistakes frequently made by lawyers, the patterns of behavior which occasionally produce tragic results for lawyer and client, and the problems faced by young lawyers, many of whom are open to strong temptations to violations of professional responsibility.

4. As a lawyer interested in continuing legal education and professional responsibility Petitioner frequently discussed the necessity for courses in professional responsibility with John Wirt as Director of Continuing Legal Education when it was under the aegis of the University of Minnesota, and with Frank B. Harris as Director of Minnesota Continuing Legal Education.

5. One of the basic problems is that courses devoted solely to professional responsibility are neither well nor attentively attended, and past experience has indicated that the lawyers who did come to these courses devoted solely to professional responsibility are more likely the class of lawyer for whom such a course is less needed than the lawyers who stayed away.

6. The solution adopted as official policy of Minnesota Continuing Legal Education was that except for unusual offerings, every course should contain three elements:

- (a) A sufficient exposition of the social problem, social theory and approach to the area of law under discussion, so that lawyers in attendance would understand the rationale of the law discussed and the legislative or judicial solutions proffered;
- (b) Sufficient practical advice so that a lawyer with some understanding of the theory could function in the area under discussion; and,
- (c) Central in time (neither the first nor the last lecture of a course, but somewhere about the middle) an exposition of the professional responsibility or ethical problems encountered in that area of practice.

Both Mr. Wirt and Mr. Harris have endeavored to carry out this policy, although it must be admitted that some courses have been offered without this central aspect.

7. It is Petitioner's strong belief, which he urges upon the Court, that feeding the lawyers of this state a sense of professional responsibility and ethical response can best be accomplished if this policy of education on professional responsibility as one of the central themes in every continuing legal education course is carried out. Over a period of time every lawyer will have heard and listened to explanations of problems of professional responsibility, but in a setting and context which renders such exposition immediate and meaningful.

WHEREFORE, your Petitioner proposes that a Court order issued on this subject be one which does not mandate separate courses devoted entirely to professional responsibility, but rather the inclusion of topical discussion on this subject in substantially all Continuing Legal Education courses, and that the hours accumulated in these separate discussions be the subject of separate accreditation and separate reporting.

Respectfully submitted,



Conrad M. Fredin
JOHNSON, FREDIN, KILLEN, THIBODEAU
& SEILER, A Professional Association
811 First National Bank Building
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Telephone (218) 722-6331

10 copies
Please

File 50438

STATE OF MINNESOTA

IN SUPREME COURT

#45298, 50438

SUPREME COURT
FILED

MAY 30 1980

JOHN McCARTHY
CLERK

IN RE HEARING ON MANDATORY
ATTENDANCE AT COURSES ON
LEGAL AND JUDICIAL ETHICS

SUBMISSION OF THE CONTINUING
LEGAL EDUCATION DIVISION OF
THE MINNESOTA STATE BAR
ASSOCIATION

The Minnesota State Bar Association, through its Continuing Legal Education Division, has been a major supporter and provider of continuing education programming for Minnesota lawyers. The Board of this Continuing Legal Education Division has a long history of concern for professional responsibility oriented programming; and in 1978, formalized a plan, with the cooperation of Gerald Magnuson and Walter Bachman, to insert discussions of professional responsibility into substantive law programming in a wide variety of practice areas.

Notwithstanding this long history of support, the MSBA Continuing Legal Education Board questions the educational value of the proposed Rule modification and feels strongly that the study of lawyers' professional responsibility is more enhanced through the inclusion of professional responsibility issues in substantive programming than through presentation of pure professional responsibility programs. Ethical considerations within the practice of law do not arise in a vacuum. By examining issues of professional responsibility within the practice context in which they arise, Minnesota lawyers are much more likely to bridge the gap between recognition and implementation.

Our specific concern relates to the Court's statement that continuing legal education programming in Minnesota is currently deficient in the area of legal ethics. In reviewing our course offerings since January 1977, we have identified some 34 distinct seminars in 19 different areas of law which contain segments relating to professional responsibility issues. Attached is a list of these seminars.

While not all of these subtopics have been entitled "ethics", our lecturers have made a clear effort to address ethical questions within the context of the subject areas. These segments, integrated into our substantive law programming, have been enthusiastically received by those in attendance.

If the Court determines to proceed with the Rule modification, Minnesota CLE respectfully requests, as a major presenter of programs in the State, that it be allowed to provide programming to satisfy the requirement and, specifically, that relevant segments of its substantive law programs count toward the requirement.


Frank V. Harris, Director

MINNESOTA STATE BAR ASSOCIATION
CONTINUING LEGAL EDUCATION

1977

SURVEY AND BOUNDARY PROBLEMS FOR LAWYERS AND SURVEYORS
January 14 and 15, 1977

"Duties of Lawyers: Duties to client, to public, to other lawyers, to surveyors" by Clinton McLagan

WORKERS' COMPENSATION IN MINNESOTA: HOW TO PREPARE AND TRY A WORKERS' COMPENSATION CASE

February 18, 1977

"Attorneys' Fees Under MSA 176.081" by Raymond Adel

THE CIVIL RIGHTS ACTION: A SHORT COURSE FOR DEFENDANTS AND PLAINTIFFS COUNSEL

April 22, 1977

"Making Civil Rights Actions Pay" by Lynn Castner

GROWING RIGHTS AND REMEDIES OF MINORITY SHAREHOLDERS

June 3, 1977 (Videos on June 4, 1977; June 10, 1977 and June 18, 1977)

"Preventing Oppression Through Planning" by James Hale

1977 ANNUAL CORPORATE LAW INSTITUTE

September 9 and 10, 1977

"Consideration of the Traditional Attorney/Client Privilege as It Has Been Eroded by Administrative and Judicial Assertions and Determinations" by Robert B. Whitlock

12TH ANNUAL CRIMINAL JUSTICE COURSE

September 19, 20 and 21, 1977

"Right to Counsel" by Ronald Haskvitz

CHEMICAL DEPENDENCY AND THE COURTS

October 6, 7 and 8, 1977

"Civil Commitment - Tort Liability - Confidentiality" by Marc Kurzman

1978

WORKERS' COMPENSATION II

April 15, 1978

"Calculation of Benefits and Wages" by Judge John R. Parker and Timothy J. McCoy

CORPORATION AND BUSINESS LAW FOR THE GENERAL PRACTITIONER

May 2, 1978 - May 3, 1978 - May 9, 1978 - May 10, 1978

"Incorporating a Minnesota Business Corporation" by Walter Anastas, Avron L. Gordon and George H. Frisch

CONSUMER LAW: CURRENT DEVELOPMENTS

May 19, 1978

"Fair Debt Collection Practices" by Jerry Lane

BASIC CORPORATE LAW

June 27, 1978

"Organizing the Corporation" by Lawrence Perlman

13TH ANNUAL CRIMINAL JUSTICE COURSE

August 21, 22 and 23, 1978

"Joint Trials - Dual Representation" by Ronald L. Haskvitz and "Ethical Considerations in the Criminal Process" by R. Walter Bachman, Jr.

CHEMICAL DEPENDENCY AND THE COURTS

September 11 and 12, 1978; September 18 and 19, 1978; and September 21 and 22, 1978

"Confidentiality Regulations" by Marc Kurzman

INTRODUCTION TO WILL DRAFTING AND ESTATE PLANNING

September 21, 1978; September 27, 1978; and October 3, 1978

"Introduction to the Planning Process" by Mark T. Signorelli

BRIDGE THE GAP

October 12 and 13, 1978

"Starting Your Own Practice" [A Film] by Jay G. Foonberg

TRUSTEE LIABILITY AND TRUST MANAGEMENT

October 17 and 18, 1978

"Trustee Liability and Sound Trust Management Principles" by William C. Pribble

1978 ANNUAL CORPORATE AND BUSINESS LAW INSTITUTE

October 19 and 20, 1978

"Professional Responsibility and the Corporate Lawyer" by Gerald E. Magnuson

MINNESOTA FAMILY LAW FORUM

November 9 and 10, 1978

"The Initial Interview" by Robert M. Spector and "Ethical Consideration in Family Law Practice" by a representative from the Board of Professional Responsibility

1979

WORKERS' COMPENSATION: SKILLS AND PRACTICE

January 19 and 20, 1979

"Calculation of Benefits and Wages, Attorney's Fees" by Honorable John R. Parker and Timothy J. McCoy

CORPORATION, BANKING AND BUSINESS LAW SECTION MIDWINTER CONFERENCE

February 2 and 3, 1979

"Professional Responsibility and Corporate Practice: Obligations of Legal Advisors to Business" by J. Gordon Cooney

PROBATE PROBLEMS AND CONFLICTS

February 24, 1979

"Problems and Issues Arising During Administration" by Glenn R. Ayres, Parrell A. Caplan, Edward G. Heilman and Conrad M. Fredin

REAL ESTATE ISSUES FOR MINNESOTA LAWYERS AND REAL ESTATE PROFESSIONALS

March 22 and 23, 1979

"Role of the Broker and Role of the Lawyer in Real Estate Transactions: Defining Areas of Responsibility and Service" by James M. Neilson

MINNESOTA CLE SPRING SERIES: CLOSE CORPORATE PRACTICE

April 19 through May 17, 1979 (Five Thursday Sessions)

By Professor Joseph E. Olson

AGRICULTURE AND THE LAW 1979

May 9 and 10, 1979

"Business Interests-Proprietorships, Partnerships, Corporations-A Case Study" by G. Martin Johnson and David A. Ludtke

CLE ON WHEELS: THE ETHICAL CONSIDERATIONS OF STARTING YOUR OWN LAW PRACTICE

May 18, 1979 (Mankato) and May 25, 1979 (Duluth)

By Bob Kalenda

INTRODUCTION TO WILL DRAFTING AND ESTATE PLANNING (VIDEO)

June 25 and 26, 1979

"Introduction to the Planning Process" by Mark T. Signorelli

14TH ANNUAL CRIMINAL JUSTICE COURSE

August 27, 28 and 29, 1979

"Conflicts of Interest" by Theodore J. Collins

THE AGING EMPLOYEE

September 14 and 15, 1979

"Litigation of Age Discrimination Claims" by Thomas P. Kane

ESTATE PLANNING: BEYOND THE BASICS

October 26, 1979 and Videos-October 30, 1979, November 6, 1979 and November 8, 1979

"Planning Issues with Second Marriages" by Richard A. Wilhoit

1980

CIVIL TRIAL TACTICS

February 22 and 23, 1980

"Discovery Practice: Role of the Trial Attorney" by John C. Shepherd

BASIC CORPORATE LAW

March 14 and 15, 1980

"Conflicts of Interest in Corporate and Business Law" by Gerald E. Magnuson

LEGAL, BUSINESS AND ECONOMIC ASPECTS OF INDUSTRIAL REVENUE BOND FINANCING - 1980

March 14, 1980

"The Role of Counsel in IRB Financing" by Richard L. Weill, David Kennedy and James T. Hale

6TH PROBATE AND TRUST LAW SECTION SEMINAR

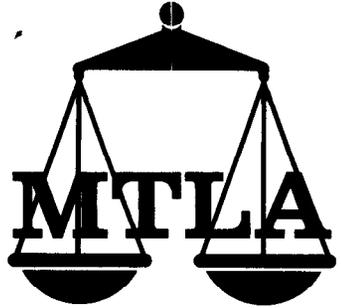
April 25, 1980

"Use of Corporations and Partnerships in Estate Planning" by Gary H.
Levinson and Neil A. Weikart

CIVIL TRIAL PREPARATION

May 30, 1980

"Initial Client Contact" by John H. Erickson



MINNESOTA TRIAL LAWYERS ASSOCIATION

459 Rice Street
Suite 301
St. Paul, Minnesota 55103

225-6548

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Minneapolis, Minnesota

EXECUTIVE DIRECTOR

JANE L. SCHOENIKE
Minneapolis, Minnesota

May 30th, 1980

Clerk of Minnesota Supreme Court
State Capitol
St. Paul, Minnesota 55155

Dear Sir:

I respectfully request that my name be placed on the agenda for testimony regarding the Proposed Rule on Mandatory Attendance at Courses on Legal and Judicial Ethics, to be held at 9:30 a.m. on Friday, June 6th, 1980.

The purpose of my testimony is to ask for clarification of a certain section of the proposed rule regarding who may sponsor such courses. Attached is a copy of a letter sent to the Chief Justice asking for such clarification.

Sincerely,

Jane L. Schoenike
Jane L. Schoenike
Executive Director
Minnesota Trial Lawyers Association

JLS/dcm



MINNESOTA TRIAL LAWYERS ASSOCIATION

459 Rice Street
Suite 301
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Minneapolis, Minnesota

EXECUTIVE DIRECTOR

JANE L. SCHOENIKE
Minneapolis, Minnesota

May 30th, 1980

Chief Justice Robert J. Sheran
Minnesota Supreme Court
State Capitol
St. Paul, Minnesota 55155

Dear Chief Justice Sheran:

I am writing in response to the Supreme Court's proposed rule on Mandatory Attendance at Courses on Legal and Judicial Ethics. As Director of the Minnesota Trial Lawyers Association, I respectfully request clarification on the proposed rule regarding who may sponsor or provide ethics courses to the bar. From my reading of the proposed rule, it seems to designate the office of Continuing Education for State Court Personnel and the Lawyers Professional Responsibility Board as the exclusive agencies for implementing and supervising such courses. I suggest that the rule be clarified so that ethical courses could be sponsored by any association or agency who wishes to do so, provided they meet the existing standards for approval for similar continuing legal education courses. I would also have no objection to an additional approval by the Personnel Office of the LPRC if they wish to approve the special content of these courses.

I would like to appear before you on this matter at the hearing scheduled for Friday, June 6th, 1980.

Respectfully submitted,

Jane L. Schoenike
Jane L. Schoenike
Executive Director

Minnesota Trial Lawyers Association

JLS/dcm

45298
50438

File 50438
~~15299~~
WILLIAM P. VAN EVERA

700 TORREY BUILDING
DULUTH, MINNESOTA

May 29, 1980

To the Honorable, the Justices of the
Minnesota Supreme Court

RE: No. 45298 50438 Proposal that lawyers must have
5 hours of attendance at courses on legal ethics
and judicial administration every three years

I support the idea of requiring practicing lawyers to continue legal education in fields of their choice throughout their years of practice. But I think that to require a course limited to the specific fields of legal ethics or judicial administration every three years is unwise and oppressive. I suggest that for many good lawyers, their clients and the general public, there is nothing to be gained by the lawyers' going to the time and expense to attend required courses offered in these fields, and that this may be a case of over-regulation in the name of reform, tending to raise the cost of legal services, and to encourage petty corruption in the administration of Continuing Legal Education.

First and second year law students take a lot of required courses. But graduate students and practicing attorneys should decide for themselves what further courses would be beneficial. One was not required to take either Legal Ethics or Judicial Administration when I was in law school, and I suggest the Court should not require all experienced lawyers to take such courses now.

Respectfully,

William P. Van Evera

William P. Van Evera

WPVE/tj

STATE OF MINNESOTA

IN SUPREME COURT

#45298, 50438

IN RE HEARING ON MANDATORY
ATTENDANCE AT COURSES ON LEGAL
AND JUDICIAL ETHICS

SUBMISSION OF THE STATE
BOARD OF CONTINUING
LEGAL EDUCATION

The Board of Continuing Legal Education is keenly aware of and sympathetic to the concerns of the Court. In a spirit of assistance to the Court the Board respectfully presents the following views.

The Board questions the need for the proposed rule and feels that the administrative burden and logistical problems far outweigh such benefits as might be derived from the enactment of the proposed rule.

We assume that the proposal relating to legal ethics applies to lawyers and that the aspects of the proposal relating to judicial ethics and judicial administration apply to judges only. Thus these comments are meant to address the questions of legal ethics rather than judicial ethics and judicial administration. Such problems as may exist relating to judicial ethics and administration should be addressed separately through the Office of Continuing Education for State Court Personnel.

The Board's experience has not been consistent with the belief that there is a lack of courses in legal ethics and

related matters.

It is not uncommon for substantive courses now given to include some material on professional responsibility either as a discrete portion of the course or woven pervasively into the substantive material. Attached is a list of some recently presented courses which included specifically designated portions dealing with ethical problems. Courses which do not include designated material also often deal with ethics. A course in trial tactics or custody problems or corporate governance must address ethical questions in one way or another.

Persons now being admitted to the bar have prepared for and passed the multi-state professional responsibility examination which is designed to test at least basic awareness of the elements of the Code of Professional Responsibility. If the purpose of the proposed rule is to ensure that lawyers are sensitive to their obligations as provided in the Code it seems that at least newly admitted lawyers have already demonstrated a basic command of the principles.

While the best information available indicates that the general CLE requirement is effective the Board is uncertain whether a separate requirement dealing with ethics will be useful.

The annual survey of a small random sample of Minnesota lawyers shows wide general approval of the mandatory CLE program and indicates that lawyers believe that it improves

lawyer competency.

Part of the success of the program is attributable to the fact that lawyers may take any approved courses that they wish to satisfy their requirements. When lawyers complain about the mandatory CLE rules they frequently say that not enough courses are available in their areas of interest. Compelling lawyers to take certain courses which they do not consider to be useful would be unpopular and probably counterproductive.

To the extent that separate requirements are to be imposed some Board members feel that other areas, such as trial skills, are in need of at least as much attention than the rules of ethical conduct. Some Board members have expressed the view that if the Court is to impose special requirements it should seriously consider responding to the Devitt Committee's recommendations by requiring special courses in trial advocacy.

So far as we know no mandatory CLE state save Colorado has a requirement such as the one envisioned by the proposed rule. Colorado is in the second year of its program and it is unclear now what problems might arise. James Klein, Executive Director of the Colorado program, says that so far there have been relatively minor problems in assigning hours of credit separately for ethics requirements. He says, however, that lawyers frequently have trouble understanding the dual reporting process which requires the lawyer to maintain records for the ethics requirement as well as the general requirement.

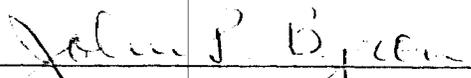
While the Continuing Legal Education office is willing to undertake the task of separately approving ethically oriented courses there may be problems in evaluating "ethical" portions of courses. If it is contemplated that sponsors such as Minnesota Continuing Legal Education and others may present courses or portions of courses that satisfy the requirement it will be necessary for the Court or the Board to establish more detailed guidelines to determine what is a course or a portion of a course that deals with "ethics."

Should a rule be enacted certain questions must be clarified:

1. Would the proposed rule require lawyers to complete 5 hours every 3 years in legal ethics in addition to the normal 45-hour CLE requirement or would the 5 hours be a part of the 45-hour requirement?
2. Would the Board of Continuing Legal Education office approve legal ethics courses or professional responsibility portions of courses?
3. Would the Board of Continuing Legal Education office monitor compliance with the legal ethics requirement?
4. Would sponsors other than the Board of Lawyers Professional Responsibility and the Office of Continuing Education for State Court Personnel be able to provide courses or portion of courses that could be counted against the ethical requirements?

5. What subject matter would be dealt with under the title "judicial administration"?
6. Would courses dealing with the avoidance of legal malpractice qualify for credit under this rule?
7. How would the requirement be phased in for the lawyers who are not reporting general CLE compliance on a staggered system--1/3 of the lawyers reporting each year on compliance in the immediately preceding 3 years?

The Board stands willing to assist the Court in any way possible but respectfully suggests that the proposed rule is not the way to attack the problem.



John P. Byron, Chairman
Minnesota State Board of
Continuing Legal Education

SOME LEGAL ETHICS COURSE MATERIAL
RECENTLY PRESENTED IN MINNESOTA

Advanced Legal Education

Workshops in Effective Delivery of Legal Services
April 11, 1980

Michael J. Hoover spoke on:

"What You're Doing or Not Doing That Gets You Into Trouble."

Minnesota Civil Trial Practice

March 6, 7, 1980

William Keppel spoke on:

"Rules of Decorum and Ethical Considerations."

Revisit of Probate II

January 18, 1980

Glenn M. Ayres and Greg Owen spoke on:

"The Lawyer's Role in Dealing With Grief."

Michael Hoover spoke on:

"Ethical Considerations in the Practice of Probate Law."

Minnesota Continuing Legal Education

Basic Corporate Law

March 14, 1980

Gerald Magnuson spoke on:

"Conflicts of Interest in Corporate and Business Law."

Dissolution Issues for Attorneys and Marriage Therapists

September 7, 1979

Timothy Erlander and Professor David Olson spoke on:

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August 27 through 29, 1979

Patricia L. Belois spoke on:

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Minnesota Continuing Legal Education-cont'd.

Counseling Corporate Clients

June 20, 1979

Charlton Dietz, Richard Pavretto and John French spoke on:
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Section 6B; Special Orders to Report; Problems Under the
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Lawyer Advertising

April 2, 1979

Roger P. Brosnahan spoke

Current Legal Malpractice Issues and Attorney Professional
Responsibility

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Professor Morris Clark and Michael Hoover spoke.

Ethical Considerations of Starting Your Own Law Practice

Various presentations, 1979

Bob Kalenda spoke.

Survey & Boundary Problems for Lawyers and Surveyors

January 14, 15, 1977

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Hennepin County Bar Association

Effective Negotiation Techniques

February 5, 1979

Professor Roger S. Haydock spoke on:

"(Negotiation) Techniques...applicable to: Personal and
Professional Character Assessments. Integrity. Respect."

National Practice Institute

Advocacy and Evidence for Barristers and Trial Lawyers

May 26 through 28, 1980

Irving Younger spoke on:

"The Ethics of Advocacy."

National Practice Institute-cont'd.

The Artist, Art, and the Consequences of Rothko
June 8, 1979

Gustave Harrow spoke on:

"Conflicts of Interest (The Dealer, The Legal Adviser)."
and also on:

"Litigation of Art Transactions: Ethical Considerations."

Minnesota State Bar Association

1979 Annual MSBA Convention

June 21, 22, 1979

Michael J. Hoover spoke on:

"Meet Mike Hoover."

Statewide TV Ad Campaign on Trial

January 20, 1979

Judge Murphy and others spoke.

Winter State Bar Conference

January 19, 20, 1979

Mock "Institutional Advertising Trial"

David R. Brink spoke on:

"Courtroom Demeanor."

Midwinter Conference of the Corporation, Banking and
Business Law Section

January 10, 1979

J. Gordon Cooney spoke on:

"Professional Responsibility and Corporate Practice:
Obligations of Legal Advisers to Business."

Minnesota Trial Lawyers Association

Criminal Trial Tactics

May 16, 1980

Gerald Gold spoke on:

"Professional Responsibility and the Defense Lawyer."

Lawyer Advertising: Who, What, Where, How and Why

January 30, 1980

STATE OF MINNESOTA

IN SUPREME COURT

#45298, 50438

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Professor Roger S. Haydock spoke on:

"(Negotiation) Techniques...applicable to: Personal and
Professional Character Assessments. Integrity. Respect."

National Practice Institute

Advocacy and Evidence for Barristers and Trial Lawyers

May 26 through 28, 1980

Irving Younger spoke on:

"The Ethics of Advocacy."

National Practice Institute-cont'd.

The Artist, Art, and the Consequences of Rothko
June 8, 1979

Gustave Harrow spoke on:

"Conflicts of Interest (The Dealer, The Legal Adviser)."
and also on:

"Litigation of Art Transactions: Ethical Considerations."

Minnesota State Bar Association

1979 Annual MSBA Convention

June 21, 22, 1979

Michael J. Hoover spoke on:

"Meet Mike Hoover."

Statewide TV Ad Campaign on Trial

January 20, 1979

Judge Murphy and others spoke.

Winter State Bar Conference

January 19, 20, 1979

Mock "Institutional Advertising Trial"

David R. Brink spoke on:

"Courtroom Demeanor."

Midwinter Conference of the Corporation, Banking and
Business Law Section

January 10, 1979

J. Gordon Cooney spoke on:

"Professional Responsibility and Corporate Practice:
Obligations of Legal Advisers to Business."

Minnesota Trial Lawyers Association

Criminal Trial Tactics

May 16, 1980

Gerald Gold spoke on:

"Professional Responsibility and the Defense Lawyer."

Lawyer Advertising: Who, What, Where, How and Why

January 30, 1980